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### Taxes not paid on perks for troopers



DAVID L RYAN/GLOBE STAFF

### State Police at Logan Airport Boston.

By [Kay Lazar](#)

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The state has failed to pay taxes on tens of millions of dollars doled out to state troopers since the 1970s as a reward for driving their own cars to work, leaving Massachusetts vulnerable to a potentially massive

bill from the IRS.

The State Police and Massachusetts Port Authority, which funds a 140-person police division based at Logan Airport, did not report the \$40 daily commuting perk as employee income or pay federal employer taxes on that money, officials acknowledged this week to the Globe.

Since the late 1970s, State Police have awarded members of Troop F, which patrols Logan and parts of the Seaport area, and troopers in the Devens Barracks a payment for driving their own vehicles to work. That per diem — which was first reported by the Globe earlier this month — has increased over time and has been \$40 since November 2005, according to the latest State Police union contract.

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Several tax specialists said the state's treatment of the per diem payment as an expense reimbursement rather than income appears to skirt federal tax rules. The Internal Revenue Service could seek millions of dollars in back taxes, they said.

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“The IRS doesn't just let you flip money to people,” said Craig Powell, chief executive of Motus, a Boston-based firm that helps companies track employees' travel expenses. Paying an employee to commute to work, and failing to report that as income, doesn't comply with IRS rules, he said.

An IRS spokeswoman declined to comment, saying federal law prohibits the agency from commenting on individual taxpayers.

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[Records](#) show about 100 Troop F

members received the per diem, amounting to about \$3.4 million over the past four years. The average annual payout came to about \$8,000, adding to salaries that included five- and six-figure overtime payouts.

Troopers typically received the per diem in a separate check, free of the tax deductions that would be part of a paycheck.



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State Police perks have been thrust into the spotlight after revelations that some troopers are paid \$40 a day to drive their own cars to work.

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The IRS could decide to go after Massport and the State Police for unpaid taxes, and that might be costly, said Lauren Carnes, tax director at O'Connor & Drew, a Braintree-based accounting firm.

“The IRS normally goes back only three years” in these types of cases, Carnes said. “But would they go back farther than that given how much money is involved in this case?”

She noted the per diem payments run over \$1 million per year. She recalled a client years ago who failed to pay appropriate taxes on a fraction of that amount — about \$100,000 — and ended up being billed \$12,400 for unpaid Social Security and Medicare taxes, plus a 28 percent federal tax.

Tax experts said it's unlikely the IRS would audit or go after individual troopers who failed to pay taxes on the per diems.

Brendan Moss, a spokesman for Governor Charlie Baker, said the office will work with the state comptroller to “ensure all withholdings and payments are done in accordance with the applicable tax codes.” Moss noted that Baker and State Police Colonel Kerry A. Gilpin are working to implement reforms to “improve the transparency and accountability” of the State Police force.

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The State Police have been buffeted by [scandals](#) and [controversies](#) in recent months — including pay-related issues. The attorney general's office and the State Police have launched a number of investigations amid criticism from Baker and legislators, some of whom have called for greater oversight of the agency.

The vehicle per diem, negotiated by the troopers' union, is meant to make up for not having the option of a take-home cruiser, said police spokesman David Procopio.

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*'The IRS doesn't just let you flip money to people.'*

State Police policy requires most troopers to commute to work

in a police cruiser, except when the vehicle is unavailable. But that doesn't apply to roughly 100 members of Troop F and about seven troopers at the Devens Barracks, Procopio said.

It also doesn't apply during the first three months of a new trooper's career, when he or she is assigned to a field training officer for a "break-in" period and patrols in that officer's cruiser. For those months, new troopers receive a per diem for taking their personal vehicles to their duty stations, Procopio said.

The most recent trooper class graduated 174 new troopers in late January. They, too, received the per diem from late January to last week, Procopio said. That tab alone runs about \$400,000.

State Police have not considered per diem payments as income, and did not report it as such to the IRS, he said.

The troopers who work at Logan are paid by the Massachusetts Port Authority, an independent public agency that owns and operates Logan, Seaport properties, and two other airports outside Boston. But the troopers are State Police employees, and the troop's operations are overseen by State Police commanders.

Massport spokeswoman Jennifer Mehigan said her agency similarly regarded the police per diems as reimbursements, not income, and also did not report them to the IRS. She declined to comment further.

The commuting per diem for State Police is among a cornucopia of perks, including tuition reimbursement at state colleges and universities, free tuition for spouses of full-time employees, and a \$75 weekly check if a trooper's commute is 75 or more miles one way. But unlike the daily commuting per diem, those payments are factored into troopers' income.

A decade ago, the state found itself in a similar tax situation.

That case involved per diem payments to state lawmakers. Legislators receive a per diem for mileage, meals, and other expenses. But for years, the state didn't report those payments to the IRS as income and did not pay taxes on the money.

When that error was discovered, the state worked out an agreement with the IRS to pay roughly \$1.6 million in Medicare taxes from 2005 through 2008, using taxpayers' money. The state also agreed to

start reporting the per diem as income, with appropriate withholding taxes starting in 2009.

The per diem matter may soon be addressed with new oversight. Starting July 1, all State Police payrolls will be handled through the state comptroller's office. That change was abruptly instituted in late March, [after the Globe revealed](#) that years of payroll records for troopers who patrol Logan had been kept secret. Comptroller Thomas Shack said that when his office takes over the payrolls, per diems will be handled differently.

"Our understanding is that we are required to report that income to taxing authorities," Shack said. A decade ago, hefty per diem payments to those in Troop E, who patrol the Massachusetts Turnpike, were eliminated. At that time, a spokesman for the now-defunct Massachusetts Turnpike Authority said the authority discovered it was cheaper to give troopers take-home cars than pay the \$1.4 million it was spending yearly for those per diems.

*Todd Wallack and Matt Rocheleau of the Globe staff contributed to this story. Kay Lazar can be reached at [kay.lazar@globe.com](mailto:kay.lazar@globe.com). Follow her on Twitter [@GlobeKayLazar](#).*

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